United Nations S/2009/106

Security Council

Distr.: General
24 February 2009

Original: English

Fourth report of the Secretary-General submitted pursuant to Security Council resolution 1757 (2007)

I. Introduction

1. Security Council resolution 1757 (2007) mandated the Secretary-General, in coordination with the Government of Lebanon, to take the steps and measures necessary to establish the Special Tribunal for Lebanon in a timely manner. The resolution also requires the Secretary-General to report to the Security Council within 90 days and thereafter periodically on the implementation of the resolution.

2. On 17 December 2008, following consultation by the Legal Counsel of the United Nations on behalf of the Secretary-General with the Prime Minister of Lebanon, Fouad Siniora, and with the Commissioner of the International Independent Investigation Commission, Daniel Bellemare, the Secretary-General decided that the Special Tribunal would commence functioning on 1 March 2009. In making that decision, the Secretary-General took into account the fact that sufficient contributions had been received for the commencement and the first year of operation of the Special Tribunal, and also the progress of the work of the Investigation Commission.

3. The present report sets out the steps and measures undertaken since the third report of the Secretary-General of 26 November 2008 (S/2008/734) to ensure that the Special Tribunal commences functioning on 1 March 2009.

II. Location of the seat

A. Headquarters Agreement

4. On 21 December 2007, representatives of the United Nations and the Netherlands signed the Agreement between the United Nations and the Kingdom of the Netherlands concerning the Headquarters of the Special Tribunal for Lebanon. In accordance with article 51, paragraph 1, of the Headquarters Agreement, it applies provisionally from the date of its signature. On 10 February 2009, the Government of the Netherlands informed the Office of Legal Affairs that the legal requirements for entry into force of the Agreement have been complied with.

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B. Premises

5. As indicated in paragraph 5 of the previous report, on 29 April 2008, the Management Committee of the Special Tribunal agreed to the plans for the refurbishment and adaptation of the premises proposed by the Registrar of the Special Tribunal in consultation with the authorities of the Netherlands. The premises are located in the urban area of The Hague.

6. By early March 2009, the external security measures and the interior refurbishment of the premises will have been completed. An architect has been selected to design the courtroom, which is expected to be ready for use by early 2010.

III. Appointment of the judges, the Prosecutor, the Registrar and the Head of the Defence Office

7. As stated in paragraph 11 of his second report (S/2008/173), the Secretary-General has finalized the selection process of the judges of the Special Tribunal. However, he will not announce their names until all necessary security measures are in place.

8. On 1 March 2009, the current Commissioner of the Investigation Commission will take up his duties as Prosecutor of the Special Tribunal in The Hague. He was appointed as both Commissioner of the Investigation Commission and Prosecutor of the Special Tribunal on 14 November 2007, in order to ensure a coordinated transition from the activities of the Investigation Commission to those of the Office of the Prosecutor of the Special Tribunal.

9. As mentioned in paragraph 10 of the third report, on 17 April 2008 a vacancy announcement for the position of Head of the Defence Office was issued and, in the interest of reaching appropriate audiences, circulated to relevant Bar Associations and to the Registrars of International Tribunals. Early in January 2009, the Secretary-General established a selection panel, which interviewed candidates for the position on 12 and 13 January 2009. On 28 January, the Legal Counsel provided the Secretary-General with the report of the selection panel and its unanimous recommendation. On 12 February 2009, the Secretary-General informed the Legal Counsel that he endorsed the panel's recommendation. In accordance with article 13, paragraph 1, of the Statute of the Special Tribunal, which is attached to the annex to Security Council resolution 1757 (2007), the Secretary-General will appoint the Head of the Defence Office in consultation with the President of the Special Tribunal as soon as the latter is elected.

10. The Registrar, after having taken office in New York on 28 April 2008, relocated to The Hague on 7 July 2008. Since then, the Registrar and his team have been working tirelessly to ensure a coordinated transition between the Investigation Commission and the Office of the Prosecutor and to prepare the premises of the Special Tribunal for occupation on 1 March 2009.

IV. Drafting of the Rules of Procedure and Evidence and other necessary legal documents

11. The group of experts convened by the Legal Counsel in March 2008 prepared initial drafts of the Rules of Procedure and Evidence, the Detention Rules and the Directive on the Assignment of Defence Counsel. It is expected that, by the end of February 2009, those drafts will have been finalized in the three official languages of the Special Tribunal, that is, Arabic, English and French. The availability of those documents in all three languages will facilitate the completion and adoption of the Rules of Procedure and Evidence and other key documents by the judges during their first plenary meeting.

V. Activities of the Management Committee

12. The Management Committee, which was established on 13 February 2008 to advise and provide policy direction on all non-judicial aspects of the operation of the Special Tribunal, has continued to meet on a regular basis. Since the Secretary-General's third report, it has considered numerous issues, such as the agreement between the Special Tribunal and the United Nations Joint Staff Pension Fund, and the transfer of funds from the United Nations Trust Fund to the bank account of the Special Tribunal. Moreover, since its establishment, the Management Committee has adopted various documents, including the terms and conditions of service of judges, the Staff Regulations and Rules, and the Financial Regulations and Rules of the Special Tribunal.

13. On 22 January 2009, the Management Committee, chaired by the representative of the United Kingdom of Great Britain and Northern Ireland, appointed the representative of Canada as its Vice-Chair.

VI. Approval of the budget and recruitment of personnel

14. On 12 December 2008, the Management Committee approved the budget of the Special Tribunal of $51.4 million for its first year of operation starting on 1 January 2009. The budget was adopted on the understanding that the Registrar could propose a supplementary budget during the course of the year for the Management Committee's approval, if activities not anticipated in the budget arise.

15. With regard to staffing, intensive recruitment activities continue in order to provide the Special Tribunal with the human resources necessary to cover its operational needs. Special efforts are being made to ensure that the transfer of personnel from the Investigation Commission to the Office of the Prosecutor of the Special Tribunal is completed by 1 March 2009.

16. In that context, the Secretary-General also wishes to report that in December 2008, at its sixty-third session, the General Assembly admitted the Special Tribunal as a member of the United Nations Joint Staff Pension Fund, effective 1 January 2009.

VII. Arrangements for the transition from the Investigation Commission to the Special Tribunal

17. Pursuant to article 17 of the annex to resolution 1757 (2007), efforts are being made to ensure a smooth transition from the activities of the Investigation Commission to those of the Office of the Prosecutor of the Special Tribunal. In this connection, on 2 December 2008 the Commissioner requested a two-month extension of the mandate of the Investigation Commission. The purpose of the extension was to allow for the continuation of the Commission's investigation without interruption and to facilitate the gradual transfer of operations, staff and assets to The Hague, in advance of the official commencement of functioning of the Special Tribunal on 1 March 2009. On 17 December 2008, following a briefing by the Commissioner, the Security Council extended the mandate of the Investigation Commission until 28 February 2009.

18. In view of the Security Council's decision, the Registrar and the Commissioner have developed a plan for the transition from the Investigation Commission to the Office of the Prosecutor, from 1 January to 28 February 2009. The plan is intended to phase in staff gradually in order both to minimize disruption to the investigation work and to provide the Registry with adequate time to absorb a large number of staff as efficiently as possible.

19. To that end, the Registrar and the Commissioner established a task force composed of senior staff members of both organizations to coordinate and facilitate transition activities. The task force has held weekly teleconferences, as well as two face-to-face meetings, one in The Hague and one in Beirut. This mechanism has worked to resolve problems and to anticipate future challenges. In February 2009, materials and electronic systems were transferred from Beirut to The Hague, and all the practical arrangements have been put in place in preparation for the arrival of the Prosecutor on 1 March 2009.

VIII. Funding

20. Arrangements between the United Nations and the Special Tribunal are being made to close the United Nations Trust Fund and to transfer the amount remaining in the Fund to the Special Tribunal before its commencement date. On 30 December 2008, the Special Tribunal received $10 million in its bank account, marking the first transfer of funds from the Trust Fund to the Special Tribunal.

21. As stated in paragraph 2 above, sufficient contributions had been received by 17 December 2008 for the commencement of functioning and the first year of operation of the Special Tribunal. The Legal Counsel has been engaged in ongoing efforts to increase financing pledges for the subsequent two years of operation.

IX. Security measures

22. The implementation of appropriate security measures remains a key issue for the successful establishment of the Special Tribunal.

23. In this regard, the Registrar, in close consultation with the Department of Safety and Security of the Secretariat and the authorities of the Netherlands and

Lebanon, has taken all appropriate measures to ensure the security of the judges, senior officials and staff of the Special Tribunal. The security measures for the premises will be finalized by 1 March 2009.

X. Development of a communication and outreach strategy

24. The Chief of Public Affairs and Outreach of the Special Tribunal took up his duties on 26 January 2009. He has begun work in a number of core programme areas with the goal of ensuring that the Special Tribunal is regarded as an independent and impartial judicial body and of developing the trust of the population of Lebanon and the wider region.

25. To that end, the following steps have been taken during the reporting period:

(a) A draft media and public access policy is being prepared;

(b) A series of fact sheets covering the main organs of the Special Tribunal are being drafted;

(c) An outreach office is being established;

(d) The website of the Special Tribunal is being redesigned to be informative, consistent, easily accessible and available in the three official languages of the Special Tribunal.

XI. The way forward

26. In the light of the foregoing, the Secretary-General is pleased to report that all necessary steps and measures have been taken for the Special Tribunal to commence functioning as from 1 March 2009. Thereafter, it will start its activities in successive phases.

27. On 1 March 2009, the Commissioner will assume office as the Prosecutor of the Special Tribunal and continue his investigations from The Hague.

28. Soon after 1 March 2009:

(a) When elected, the President of the Special Tribunal will assume office on a full-time basis to ensure the efficient management and functioning of the Tribunal;

(b) The Head of the Defence Office will be appointed and will assume his or her functions on an "as needed" basis;

(c) The pretrial judge will assume office on a full-time basis to issue any warrants or orders required for the conduct of investigations and for the preparation of trials.

29. The judges of the Trial and Appeals Chambers will assume their responsibilities on a date to be determined by the Secretary-General, in consultation with the President of the Special Tribunal. Until they are called to work on a full-time basis, they will serve on an ad hoc basis to perform some duties, and in particular to discuss and adopt the Rules of Procedure and Evidence, as well as other key legal documents.

XII. Final observations

30. This is the final report of the Secretary-General before the Special Tribunal commences functioning as an independent judicial body on 1 March 2009. The Secretary-General will continue to ensure that the Special Tribunal is able to achieve its mandate in the most effective manner. However, the cooperation of all Member States will remain crucial for the Special Tribunal to be successful.